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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

## GUARDANT HEALTH, INC.,

## Plaintiff and Counterclaim-Defendant

VS

NATERA, INC.,

## Defendant and Counterclaim- Plaintiff

Case No. 3:21-cv-04062-EMC

**JOINT STIPULATION RE OBJECTIONS  
TO EXHIBITS PURSUANT TO DKT. 708**

Final Pretrial Conference: October 15, 2024

Time: 9:00 a.m.

Place: Courtroom 5, 17th Flr

1           The Parties to the above-entitled action jointly submit this Stipulation regarding Objections  
 2 to Exhibits pursuant to this Court's Order, Dkt. 708 (October 9, 2024).

3           Pursuant to Dkt. 708, Guardant disclosed the following "must use" exhibits: 1, 2, 4, 8, 9,  
 4 12, 21, 22, 38, 40, 41, 51, 53, 54, 55, 56, 63, 64, 67, 69, 76, 87, 90, 91, 92, 95, 96, 97, 105, 106,  
 5 108, 109, 110, 111, 112, 117, 119, 120, 123, 124, 126, 127, 128, 129, 130, 131, 132, 133, 138,  
 6 140, 145, 147, 148, 149, 150, 151, 152, 153, 156, 160, 167, 182, 194, 196, 206, 210, 219, 220,  
 7 225, 226, 227, 228, 229, 245, 261, 275, 286, 296, 298, 314, 315, 326, 334, 359, 360, 365, 368,  
 8 369, 370, 376, 378, 384, 385, 404, 405, 406, 415, 416, 418, 419, 421, 422, 423, 427, 428, 433,  
 9 522, 524, 533, 546, 547, 548, 549, 595, 674, 680, 749, 775, 876, 877, 939, 981, 1044, 1048, 1064,  
 10 and 1453.

11           Pursuant to Dkt. 708, Natera disclosed the following "must use" exhibits: 1, 2, 3, 4, 98,  
 12 506, 507, 510, 511, 520, 521, 522, 523, 525, 537, 538, 542, 544, 545, 546, 549, 550, 552, 554,  
 13 555, 556, 557, 558, 559, 560, 565, 569, 570, 572, 573, 576, 609, 618, 619, 620, 621, 637, 641,  
 14 650, 672, 690, 693, 712, 713, 718, 719, 722, 723, 725, 728, 729, 731, 735, 762, 784, 837, 839,  
 15 841, 870, 912, 918, 919, 939, 942, 943, 984, 1103, 1111, 1114, 1115, 1178, 1186, 1295, 1316,  
 16 1325, 1333, 1354, 1362, 1376, 1466, 1478, 1493, 1494, 1507, 1513, 1514, 1515, 1516, 1517, 1518,  
 17 1524, 1525, 1526, 1527, 1529, 1530, 1532, 1554, 1569, 1571, 1575, 1577, 1578, 1591, 1592, 1603,  
 18 1613, 1614, 1615, 1624, 1633, 1636, 1638, 1659, 1660, 1661, 1662, 1663, 1676, and 1786.

19 **I. NATERA'S POSITION ON GUARDANT'S "MUST USE" EXHIBITS**

20           Pursuant to the Court's Order at Dkt. 708, Natera withdraws its objections to a number of  
 21 the exhibits Guardant includes on its "must use" list. For the avoidance of doubt, by dropping  
 22 objections to a particular exhibit, Natera does not stipulate to its admissibility. Foundation and  
 23 authenticity, etc., must still be demonstrated by the sponsoring witness, and Natera reserves the  
 24 right to object accordingly.

25           Additionally, Natera may raise objections to exhibits not objected hereto depending on how  
 26 Guardant seeks to introduce the document, or for what purpose the document is offered, at trial,  
 27 including on the basis of hearsay. To the extent Guardant seeks to introduce incomplete or excerpts  
 28 of exhibits, Natera objects to such introduction under FRE 106 and 403.

Natera maintains the following specific objections to exhibits on Guardant's "must use" list:

<b>TX. No.</b>	<b>Beg. Bates</b>	<b>Doc. Description</b>	<b>Natera's Maintained Specific Objections</b>
TX-0040	NATERA_453966	Email re Signature Tissue Failure Rate Dashboard	R, 403, Dkt. 611 at 11.
TX-0041	NATERA_493401	Oncology Commercial Milestones	R, 403, Dkt. 611 at 11; re: failure rate only.
TX-0051	NATERA_320165	Email re Aarhaus FNs (Follow Up)	R, 403, Dkt. 509 (MIL 3); post-Reinert 2019 publication.
TX-0055		Excerpts of Video Presentation: Evidence Review: Tumor-informed vs Tumor-naïve MRD"	106 (incomplete video)
TX-0056		Transcription of Excerpts of Video Presentation: Evidence Review: Tumor-informed vs Tumor-naïve MRD	H, 403, A, 106, FN (Shearman & Sterling transcript)
TX-0063	NATERA_351890	Natera Slide Deck - Q1 2021 Earnings Call - Investor Presentation	R, 403, 105 (not advertising), Dkt. 611 at 11-12 (deferred).
TX-0087	NATERA_007441	ctDNA Sequencing Platform Evaluation - CRC Presurgery Plasma Samples Stage 1-IV	R, 403, Dkt. 509 (MIL 3), 105, Dkt. 611 at 13-14
TX-0090	GHI00014465	Email re MolDx response to M. McCoy re Guardant Reveal Technical Assessment Submission	R, 403, Dkt. 509 (MIL 2), 105 (not for damages or alleged delay)
TX-0097	NATERA_342153	Email re SOLAR Assistance	R, 403, Dkt. 509 (MIL 2), 105 (not for damages or alleged delay)
TX-0112	NATERA_001882	Email re [INFORM] Dear Dr. Letter sent today (tumor-informed vs Tumor-naïve)	R, 403, Dkt. 326 at 25:17-26:4 (quantitation not alleged to be false)
TX-0127	NATERA_302505	Letter re: Natera's Misrepresentations Concerning the Guardant Reveal Liquid Biopsy Test	R, 403, O, H (Norton Rose letter), LC, 602
TX-0132		Joint Statement Regarding Plaintiff Guardant Health, Inc.'s Motion for Preliminary Injunction	Dkt 509 (MIL 4), R, 403, BRPL
TX-0145	GHI00053116	Guardant - Specific Responses to the questions posed in the 6/28 email	Dkt. 509 (MIL 2), 403, 401, H
TX-0156	NATERA_452357	Email re: Draft bullet for MolDx - WIP	105 in view of Dkt. 509 (MIL 2).
TX-0160	NATERA_492634	Oncology Commercial Milestones	R, 403, Dkt. 611 at 11; re failure rate only.
TX-0167	NATERA_182020	Exhibit A - Study Information	R, 403, Dkt. 509 (MIL 3); Dkt. 611 at 12-13 (deferred)

1	TX-0182	NATERA_080814	Poster: Personalized Circulating Tumor DNA Analysis to Monitor Colorectal Cancer	R, 403, Dkt. 509 (MIL 3); Dkt. 611 at 12-13 (deferred); 105
2	TX-0194	NATERA_320662	Email re Accepted: Aarhus CRC External Meeting (Attachment: Signatera pipeline updates; revised Signatera reports)	R, 403, Dkt. 509 (MIL 3); Dkt. 611 at 12-13 (deferred); post-Reinert 2019 publication
3	TX-0196	NATERA_288812	Email re Longitudinal Analysis inclusion criteria	R, 403, Dkt. 509 (MIL 3); Dkt. 611 at 12-13 (deferred)
4	TX-0219	GHI00040603	Reveal Excel Worksheet	106 (missing parent email)
5	TX-0225	NATERA_004321	Attachment to Ex. 1397 - Letter to Bien-Willner	105 in view of Dkt. 509 (MIL 2) (not for damages or alleged delay).
6	TX-0226	NATERA_002562	Email re We have a meeting with MolDx tomorrow to discuss comparable/equivalent	105 in view of Dkt. 509 (MIL 2) (not for damages or alleged delay).
7	TX-0227	NATERA_450905	Email re Medicare reveal plan	105 in view of Dkt. 509 (MIL 2) (not for damages or alleged delay).
8	TX-0229		MOL2-16-3654 - Comparing single target and multitarget approaches for postoperative circulating tumour data detection in Stage II-III colorectal cancer patients	105 in view of Dkt. 509 (MIL 3) (Reinert study not unreliable/fraudulent).
9	TX-0245	GHI00053159	Sample Failure Rate_2022-04-20	R, H, 403, Dkt. 611 at 11 (deferred)
10	TX-0261	NATERA_103353	Email re: Please send us the slides you plan to present at todays meeting and attachment (Natera_Aarhus CRC: Next Steps)	R, H, 403, Dkt. 611 at 13 (deferred), Dkt. 509 (MIL 3) (Reinert study not unreliable/fraudulent).
11	TX-0286	NATERA_007454	Emails re: Tumor-informed vs Tumor uninformed	A, FN, 403, 602, 611a, Dkt. 509 (MIL 4), M
12	TX-0296	NATERA_355998	Email re [INFORM] Dear Dr. Letter sent today (tumor-informed vs Tumor-naïve) and attachment	105, 403
13	TX-0298		Article: Comparing single-target and multitarget approaches for postoperative circulating tumour DNA detection in stage II-III colorectal cancer patients (Henriksen et al)	105 in view of Dkt. 509 (MIL 3) (Reinert study not unreliable/fraudulent).
14	TX-0314		Appendix D to Expert Report of Brian Sowers (Screenshots and Questionnaire)	H, 105, 403, Expert
15	TX-0315		Appendix G to Expert Report of Brian Sowers (Survey data listing)	H, 105, 403, Expert
16	TX-0326	NATERA_325415	Henriksen Paper	105 in view of Dkt. 509 (MIL 3) (Reinert study not

			unreliable/fraudulent); post-Reinert 2019 publication
1	TX-0359	GHI00047594	Email: Guardant Reveal MolDx Response Supplement H, 401, 403, Dkt. 509 (MIL 2 - not for damages or alleged delay)
2	TX-0378	NRG-000553	IDE Supplement To G190082 H
3	TX-0384	NATERA_019629	Email re: follow-up on todays meeting R, 403, Dkt. 509 (MIL 3)
4	TX-0385	NATERA_020254	Personalized circulating tumor DNA analysis to monitor colorectal cancer R, 403, Dkt. 509 (MIL 3); Dkt. 611 at 12-13 (same as TX-182, deferred); 105
5	TX-0405	NRG-000704	Email RE: FW: GI005 Presentation Slides H
6	TX-0406	NRG-000925	Email RE: RE: Draft slides for GI005 H
7	TX-0415		ASCO: ctDNA in CRC: More Questions than Answers R, H, 403, Expert
8	TX-0416		Rutgers: Questions Regarding Conflict of Interest H, R, 403
9	TX-0422	GHI00063553	Transcript of Audio-Recorded Scientific Talk - Exhibit No. 055 H, FN, A, 403, 106
10	TX-0423	GHI00063571	Natera Inc at Morgan Stanley 18th Annual Global Healthcare Conference (Virtual) - Final H, A, 106, FN, 106
11	TX-0522	MGH000017119	Email from Seventer re: LUNAR analysis and data H
12	TX-0524	MGH000017120	LUNAR analysis PowerPoint H
13	TX-0533	GHI00001239	Email from Seventer re: LUNAR analysis and data H
14	TX-0595	GHI00004332	Genentech CRC Bake off Batch Summary R, H, 403, Dkt. 509 (MIL 3). Dkt. 611 at 13 (not results from commercial assay)
15	TX-1044	GHI00039484	Email from Price re Natera's Commitment to MRD Testing with attachment "Natera Email Response.docx" H, 105
16	TX-1048	GHI00040998	Email from Price re Parikh Q from field H, I, 403
17	TX-1064	MGH000001652	Email from Kanter re LUNAR cohort patients to review H

## II. GUARDANT'S POSITION ON NATERA'S "MUST USE" EXHIBITS

Pursuant to the Court's Order (Dkt. 708) to reach a stipulation to reduce the number of objections the Court must rule on, Guardian agrees to withdraw objections (or has not objected) to the following exhibits listed on Natera's "will use" list (subject to witness-specific foundation issues and Rule 105 requests as appropriate), and would further propose that the Parties mutually stipulate that unobjectionable "will use" exhibits may be used at trial (subject to the same

1 restrictions on foundation and 105):

2 1, 2, 3, 4, 98, 506, 507, 510, 511, 520, 521, 522, 546, 549, 550, 552, 555, 557, 558, 559,  
3 560, 565, 576, 619, 637, 650, 672, 690, 718, 719, 725, 728, 731, 735, 762, 784, 870, 918, 919,  
4 939, 984, 1111, 1115, 1333, 1466, 1494, 1478, 1529, 1530, 1532, 1569, 1603, 1624, 1633.

5 Guardant's objections to the remaining 71 exhibits from Natera's "will use" list are set  
6 forth in the Parties' Amended Joint Trial Exhibit List (Dkt. 668).

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1 Stipulated and submitted,

2 Dated: October 14, 2024

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18 Andrew J. Bramhall

19 Attorney for Defendant/Counter-Plaintiff  
20 NATERA, INC.

## **FILER'S ATTESTATION**

Pursuant to Civil LR 5.1(i)(3), the undersigned hereby attests that concurrence in the filing of this **JOINT STIPULATION RE OBJECTIONS TO EXHIBITS PURSUANT TO DKT.** **708** has been obtained from counsel for Guardant Health, Inc. and is electronically signed with the express permission of Natera's counsel.

Date: October 14, 2024

By: /s/Andrew J. Bramhall  
Andrew J. Bramhall

Attorney for Defendant/Counter-Plaintiff  
NATERA, INC.